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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
10 **STATE OF CALIFORNIA**

11
12 In the Matter of the Accusation Against:

13 JORGE LUIS ANDRADE
29120 Avenida La Vista
14 Cathedral City, CA 92234

15 Registered Nurse License No. 595881

16 Respondent.

Case No.

2011-42

ACCUSATION

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about March 8, 2002, the Board of Registered Nursing issued Registered Nurse
24 License Number 595881 to Jorge Luis Andrade (Respondent). The Registered Nurse License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 December 31, 2011, unless renewed.
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1 9. Section 493 of the Code states:

2 Notwithstanding any other provision of law, in a proceeding conducted by a
3 board within the department pursuant to law to deny an application for a license or
4 to suspend or revoke a license or otherwise take disciplinary action against a
5 person who holds a license, upon the ground that the applicant or the licensee has
6 been convicted of a crime substantially related to the qualifications, functions, and
7 duties of the licensee in question, the record of conviction of the crime shall be
8 conclusive evidence of the fact that the conviction occurred, but only of that fact,
 and the board may inquire into the circumstances surrounding the commission of
 the crime in order to fix the degree of discipline or to determine if the conviction is
 substantially related to the qualifications, functions, and duties of the licensee in
 question.

9 As used in this section, "license" includes "certificate," "permit,"
10 "authority," and "registration."

11 10. Section 2761 of the Code states:

12 The board may take disciplinary action against a certified or licensed nurse
13 or deny an application for a certificate or license for any of the following:

14 (a) Unprofessional conduct, which includes, but is not limited to, the
15 following:

16

17 (f) Conviction of a felony or of any offense substantially related to the
18 qualifications, functions, and duties of a registered nurse, in which event the record
19 of the conviction shall be conclusive evidence thereof.

20

21 11. Section 2762 of the Code states:

22 In addition to other acts constituting unprofessional conduct within the
23 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for
24 a person licensed under this chapter to do any of the following:

25

26 (b) Use any controlled substance as defined in Division 10 (commencing
27 with Section 11000) of the Health and Safety Code, or any dangerous drug or
28 dangerous device as defined in Section 4022, or alcoholic beverages, to an extent
 or in a manner dangerous or injurious to himself or herself, any other person, or

1 the public or to the extent that such use impairs his or her ability to conduct with
2 safety to the public the practice authorized by his or her license.

3
4 12. Section 2765 of the Code states:

5 A plea or verdict of guilty or a conviction following a plea of nolo
6 contendere made to a charge substantially related to the qualifications, functions
7 and duties of a registered nurse is deemed to be a conviction within the meaning of
8 this article. The board may order the license or certificate suspended or revoked, or
9 may decline to issue a license or certificate, when the time for appeal has elapsed,
10 or the judgment of conviction has been affirmed on appeal or when an order
11 granting probation is made suspending the imposition of sentence, irrespective of a
12 subsequent order under the provisions of Section 1203.4 of the Penal Code
allowing such person to withdraw his or her plea of guilty and to enter a plea of
not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
information or indictment.

12 REGULATORY PROVISIONS

13 13. California Code of Regulations, title 16, section 1444, states:

14 A conviction or act shall be considered to be substantially related to the
15 qualifications, functions or duties of a registered nurse if to a substantial degree it
16 evidences the present or potential unfitness of a registered nurse to practice in a
manner consistent with the public health, safety, or welfare. Such convictions or
acts shall include but not be limited to the following:

17 (a) Assaultive or abusive conduct including, but not limited to, those
18 violations listed in subdivision (d) of Penal Code Section 11160.

19 (b) Failure to comply with any mandatory reporting requirements.

20 (c) Theft, dishonesty, fraud, or deceit.

21 (d) Any conviction or act subject to an order of registration pursuant to
22 Section 290 of the Penal Code.

23
24 14. California Code of Regulations, title 16, section 1445 states:

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26 (b) When considering the suspension or revocation of a license on the
27 grounds that a registered nurse has been convicted of a crime, the board, in
28 evaluating the rehabilitation of such person and his/her eligibility for a license will
consider the following criteria

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the license has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
- (6) Evidence, if any, of rehabilitation submitted by the licensee.

COST RECOVERY

15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(March 26, 2010 Conviction for Vandalism on November 7, 2009)

16. Respondent is subject to disciplinary action under sections 490 and 2761(f) of the Code in that he was convicted of a crime that is substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

a. On or about March 26, 2010, in a criminal proceeding entitled *People of the State of California v. Jorge Luis Andrade*, in the Riverside County Superior Court, case number INM202509, Respondent was convicted on his plea of guilty for violation of Penal Code section 594(a), vandalism.

b. The facts that led to the conviction were that on or about November 7, 2009, officers from the Palm Springs Police Department were dispatched to a call of a subject causing a disturbance at Azul, a restaurant in Palm Springs. The owner of Azul indicated that he heard the sound of glass breaking in the bathroom and discovered the mirror in bathroom was broken. A witness who was in the bathroom at the time of the incident stated that he saw a man standing in front of the mirror, staring at his reflection. The man was later identified as

1 Respondent. The witness reported seeing Respondent strike the mirror twice with his right hand.
2 When the mirror shattered, Respondent said, "are you afraid of me now, are you scared of me
3 now?" and then left the bathroom. An Azul employee stated that he entered the bathroom, saw
4 the broken mirror and a trail of blood droplets leading to the kitchen. When the employee entered
5 the kitchen, a member of the kitchen staff said Respondent entered the kitchen, washed his hands
6 of blood and ran toward the rear patio exit. Respondent was found hiding on the patio.
7 Respondent then ran off.

8 c. Shortly thereafter, an officer then saw Respondent running southbound,
9 crossing the street. The officer ordered Respondent to the ground and placed him in handcuffs.
10 Respondent had bloodshot and watery eyes and an odor of alcohol on his breath. Respondent
11 admitted that he consumed alcohol and stated he had "about six beers." Respondent had a deep
12 laceration on his right hand that bled. The Palm Springs Fire Department and American Medical
13 Response then arrived at the scene and began treating Respondent. Respondent became
14 belligerent towards the officer and medical staff. Respondent had to be physically held down
15 because he continuously attempted to push the paramedics away as they treated him. Respondent
16 was transported to the Desert Regional Medical Center for treatment. While waiting for medical
17 staff at the hospital, Respondent became violent and belligerent. Respondent attempted to push
18 officers away from him and refused to stay seated in the chair for treatment on two occasions.
19 Two officers had to physically hold Respondent down in the chair as he continually resisted and
20 attempted to push an officer away from him. Respondent stated, "you better hope you don't get
21 shot, because you have to come to my hospital and I'll fuck you up." Respondent also stated,
22 "you be ready when this happens to you."

23 d. Based on Respondent's actions in striking the glass mirror with his bare
24 hand, the severe injury to his hand, his refusal to be treated medically, and combative nature,
25 officers determined that Respondent was too intoxicated to care for himself. Respondent was
26 cited for violations of Penal Code section 594(a)(2), vandalism, Penal Code section 647(f), public
27 intoxication, and Penal Code section 148(a), resisting, obstructing or delaying a peace officer.
28 Respondent was released at the hospital.

1 e. As a result of his conviction, Respondent was sentenced to summary
2 probation for 12 months, required to pay all fines, fees, and restitution, and ordered to stay 100
3 yards away from Azul.

4 **SECOND CAUSE FOR DISCIPLINE**

5 (Use of Alcohol in a Manner Dangerous to Self or Others)

6 17. Respondent is subject to disciplinary action under section 2762(b) of the Code in
7 that on or about November 7, 2009, Respondent used alcohol to an extent as to be dangerous to
8 himself or others, as is set forth in paragraph 16, above, which is incorporated herein by
9 reference.

10 **PRAYER**

11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Registered Nursing issue a decision:

- 13 1. Revoking or suspending Registered Nurse License Number 595881, issued to Jorge
14 Luis Andrade;
- 15 2. Ordering Jorge Luis Andrade to pay the Board of Registered Nursing the reasonable
16 costs of the investigation and enforcement of this case, pursuant to Business and Professions
17 Code section 125.3;
- 18 3. Taking such other and further action as deemed necessary and proper.
- 19
20

21 DATED: 7/15/10

22 *Louise R. Bailey*
LOUISE R. BAILEY, M.ED., RN
23 Interim Executive Officer
24 Board of Registered Nursing
25 Department of Consumer Affairs
State of California
Complainant

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